

Appl. No. : 10/060,907
Filed : January 29, 2002

REMARKS

In response to the Office Action mailed July 15, 2003, Claims 16-32 of the above-captioned application are pending. Applicant respectfully requests the Examiner to reconsider the claims in view of the foregoing amendments and the following comments.

Terminal Disclaimer

Claim 24 stands rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claim 32 of U.S. Patent No. 6,341,991. Without acquiescing to the grounds of the rejection, Applicant submits herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) in order to advance the present application toward allowance.

Amended Claims 16 and 24 Are Not Anticipated by Mondek et al.

The Examiner rejected independent Claims 16 and 24 under 35 U.S.C. § 102(b) as anticipated by the disclosure in U.S. Patent No. 5,407,372 (Mondek et al.). In response, Applicant has amended Claims 16 and 24 to clarify that the phrase “outer surface” as previously used in these claims refers to an exterior surface of the outboard drive.

In particular, Claim 16 has been amended to recite that the pair of cover members are configured to lie generally flush with at least a portion of the housing outer surface, which lies on the exterior of the outboard drive. The drive shaft housing disclosed by the Mondek et al. patent does not have, *inter alia*, an “outer surface” if one were to read Claim 16 onto the disclosure in the manner done by the Examiner. According to the Examiner, the skirts 117 and 119 (which are unitary parts of the respective port and starboard covers 77, 97) correspond to the “cover members” recited in Claim 16. The Mondek et al. patent, however, clearly states that the outer surface of the drive shaft housing 21 is enclosed within the port and starboard covers 77, 79. See Col. 4, lines 26-37. Accordingly, the skirts 117, 119 do not lie generally flush with a housing

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outer surface on the exterior of the outboard drive. As such, the Mondek et al. patent fails to disclose at least this structural feature of the outboard drive recited by Claim 16.

Claim 24 is allowable in view of at least the same structural distinction. Claim 24 recites that the cover members are configured to lie generally flush with at least the portion of the outer surface of the housing. The claim language further recites that the outer surface lies on the exterior of the outboard drive. Among other distinctions, the Mondek et al. patent fails to disclose such structure. Accordingly, Applicant respectfully requests the Examiner to reconsider Claims 16 and 24.

Claims 17-19 depend from Claim 16 and Claim 29 depends from Claim 24. These dependent claims are not anticipated by Mondek et al. for at least the same reasons stated above. Applicant respectfully requests the Examiner to withdraw the rejections of Claims 17-19 and 29 and to reconsider these claims.

Applicant acknowledges with appreciation the indication that Claims 20-23, 25-28 and 30-32 contain allowable subject matter. As Applicant believes that Claims 16 and 24 are in condition for allowance, Applicant has kept these claims as dependent claims.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections raised in the Office Action so as to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully

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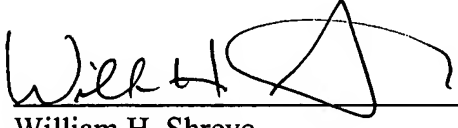
requested to call Applicant's attorney, Bill Shreve at (949) 721-2895 (direct line) in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Jan. 15, 2004

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